25; 3 ENCYC. EVID., pp. 301-302 and cases cited. Mr. WIGMORE in his Treatise on Evidence partially repudiates the tests of admissibility embodied in the rule just stated and contends that the test should be whether the inducement was such as that there would be any fair risk that the confession would be false. 1 WIG. EVID., § 824, and cases there cited. While in theory it is difficult to see how the employment of the words used in the principal case should render the confession inadmissible, when judged by the standard contended for by Mr. WIGMORE, who repudiates the exclusion of a confession made subsequent to such advice, yet the English courts quite generally exclude a confession made under such circumstances. *R.* v. *Garner,* 1 Den. Cr. C. 329; *R.* v. *Baldry,* 2 Den. Cr. C. 441; *R.* v. *Fennell,* 7 Q. B. D. 147; *R.* v. *Bate,* 11 Cox Cr. C. 686. These cases represent the weight of authority in England on the point involved in the principal case. See also 1 WIG. EVID. 832 and note. In the United States the weight of authority is that a confession made subsequent to such advice is admissible. *Aaron* v. *State,* 37 Ala. 106; *State* v. *Potter,* 18 Conn. 166; *Hardy* v. *U. S.,* 3 D. C. App. 35; *Valentine* v. *State,* 77 Ga. 471; *Nicholson* v. *State,* 38 Md. 140; *Com.* v. *Mitchell,* 117 Mass. 431; *People* v. *Kennedy,* 159 N. Y. 346, 54 N. E. 51; *Benson* v. *State,* 119 Ind. 488; *State* v. *Kornstell,* 62 Kas. 221; *Sharkey* v. *State,* 4 O. Cir. Ct. Rep. 101. Contra: *Kelley* v. *State,* 72 Ala. 244; *Briscoe* v. *State,* 67 Md. 6; *State* v. *Walker,* 34 Vt. 296; *Stephen* v. *State,* 11 Ga. 225; *People* v. *Gonzales,* 136 Cal. 666; *State* v. *Jackson,* 3 Pinnewell (Md.) 270, 50 Atl. 270.

EVIDENCE—ADMISSIBILITY OF MARKET QUOTATIONS.—In an action to recover damages for breach of contract to deliver eggs in stipulated installments the defendant was allowed to introduce in evidence the quotation of the Kansas City Produce Exchange of the price of eggs upon the day of breach, in order to show that the market price on that day was 14½c, the contract price, and hence, plaintiff had not suffered by the breach. It appeared that the quotation offered was the official quotation of that market and was made up by a committee of the exchange, who, using the receipts and sales of the day as a basis, took into consideration the state of the market in other places, and various other items, and fixed the quotation for that day at what they thought it ought to be in view of all the facts. *Held,* that the admission of a quotation made up in such a manner was error. *F. W. Brockman Commission Co.* v. *Aaron* (1910), — Mo. app. —, 130 S. W. 116.

The general rule upon the point involved in the principal case, as stated by Judge Cooley in *Sisson* v. *R. Co.,* 14 Mich. 496, is that a market quotation or report is admissible if it is such a report as people generally place reliance on in their actual business dealings, provided it is based on a survey of the whole market and is derived from persons having an opportunity to know the course of the market. This rule is supported by the following cases, *Western Wool Commission Co.* v. *Hart* (Tex.) 20 S. W. 131; *Kebler* v. *Caplis,* 140 Mich. 28; *Tri-State Milling Co.* v. *Breisch,* 145 Mich. 232; *Mosley* v. *Johnson,* 144 N. C. 257; *St. Louis & S. F. R. Co.* v. *Pearce,* 101 S. W. 760, 82 Ark. 339; *Chicago B. & Q. R. Co.* v. *Todd,* 74 Neb. 712; *Farley* v. *Smith,*

87 N. C. 367; *Cliquots Champagne,* 70 U. S. (3 Wall.) 114; *Peter* v. *Thickstun,* 51 Mich. 589. In theory the principal case is not in harmony with the cases just cited, for it appears that the quotation offered and rejected was the official quotation of that market, made up as all quotations on eggs were made in that market, and by persons familiar with the course of trade in that market. Some courts refuse to receive market quotations unless it be shown how they are made up. *Bunte* v. *Schuman,* 92 N. Y. Supp. 806; *Whelan* v. *Lynch,* 60 N. Y. 469; *Merewether* v. *O. & K. C. R. Co.,* 128 Mo. App. 647, 107 S. W. 434. Contra: *Mt. Vernon Brewing Co.* v. *Teschner,* 108 Md. 158, 69 Atl. 702. Some courts go so far as to allow a witness to testify to the market price of commodities, whose knowledge is based on quotations found in newspapers or received from dealers. *Tex. Cent. R. Co.* v. *Fischer,* 18 Tex. Civ. App. 78; *Tex. & Pac. R. Co.* v. *W. Scott & Co.* (Tex.) 86 S.W. 1065; *Chicago R. I. & T. R. Co.* v. *Hassel,* 36 Tex. Civ. App. 522, 81 S. W. 1241; *Suttle* v. *Falls,* 98 N. C. 393; *Smith* v. *N. C. R. Co.,* 68 N. C. 107. Contra: *Tountain* v. *Wabash R. Co.,* 114 Mo. App. 683, 90 S. W. 393, 114 Mo. App. 683; *Norfolk & W. R. Co.* v. *Reeves,* 97 Va. 284; *Ferris* v. *Sutcliffe,* 1 Alb. Law J. 238; *Bunte* v. *Schuman,* 92 N. Y. Supp. 806.

EXECUTORS AND ADMINISTRATORS—DENIAL OF APPLICATION FOR APPOINTMENT OF ADMINISTRATOR—REMEDY—MANDAMUS APPEAL.—Sylvanus Flick died intestate in Missouri and his only son applied for letters of administration, which the Probate Court refused to grant. A statute in force in Missouri provides that "Letters of administration shall be granted: First, to the husband or wife; secondly, to those who are entitled to distribution of the estate, or one or more of them, as the court or judge or clerk in vacation shall believe will best manage and preserve the estate." *Held*—, the rule laid down in the statute is not so strict as to preclude a Probate Court from passing over one entitled to letters under it, where the one so entitled is unfit to administer and to appoint him would subject the assets of the estate to unusual hazard. *State ex. Rel. Flick* v. *Reddish et al.* (1910), — Mo. App. —, 129 S. W. 53.

This case is also interesting in respect to procedure. The relator appealed from the ruling of the Probate Court and failing in the Circuit Court, appealed to the Court of Appeals where his right to appeal at all from the ruling of the Probate Court was denied and the case dismissed. That court, however, certified the case to the Supreme Court which affirmed the holding of the Court of Appeals—*Flick* v. *Schenk* (1908), 212 Mo. 275—and pointed out that the proper remedy was by a proceeding in mandamus. Accordingly, relator instituted the present proceeding. The Circuit Court granted the writ, but an appeal was again taken and the same court which had previously denied relator an appeal held mandamus improper in this case, since the Probate Court had acted judicially and not ministerially and appeal was the proper remedy.

FRAUD—FALSE REPRESENTATION—KNOWLEDGE OF FALSITY.—Plaintiff sued defendant for the amount of a promissory note given by plaintiff to defendant for an option which defendant claimed he held on certain land. The